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By: **Delegate Hurson**

Introduced and read first time: February 7, 2003

Assigned to: Health and Government Operations

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A BILL ENTITLED

1 AN ACT concerning

2 **Medical Assistance Reimbursement Rate Commission**

3 FOR the purpose of establishing a Medical Assistance Reimbursement Rate  
4 Commission in the Department of Health and Mental Hygiene; establishing the  
5 membership, terms of the members, selection of the chairman and vice  
6 chairman, meeting requirements, reimbursement for expenses, and staffing of  
7 the Commission; specifying the terms of the initial members of the Commission;  
8 specifying the duties, responsibilities, and functions of the Commission;  
9 providing for timely access to certain information; specifying that certain powers  
10 of the Secretary do not apply to the Commission; requiring the Governor to  
11 include certain funds in the State budget beginning with a certain fiscal year;  
12 requiring the Commission to issue a certain report by a certain date; defining a  
13 certain term; altering certain provisions of law relating to Medical Assistance  
14 reimbursement; providing for the effective dates of this Act; and generally  
15 relating to the establishment of a Medical Assistance Reimbursement Rate  
16 Commission.

17 BY repealing and reenacting, with amendments,  
18 Article - Health - General  
19 Section 15-102.1(b)(8), 15-103(b)(2)(ii), (b)(18), and (e), 15-103.1, 15-103.3(d),  
20 15-105(a) and (c)(1), 15-109(e)(4), 15-111(b)(2), 15-112, 15-113(b),  
21 15-114(e)(5), 15-114.1, 15-116, 15-117(d), and 15-118(b) and (d)  
22 Annotated Code of Maryland  
23 (2000 Replacement Volume and 2002 Supplement)

24 BY repealing and reenacting, without amendments,  
25 Article - Health - General  
26 Section 15-103(b)(1), 15-103.3(a), 15-109(e)(1), 15-111(a), 15-114(c), and  
27 15-117(b)(1)  
28 Annotated Code of Maryland  
29 (2000 Replacement Volume and 2002 Supplement)

30 BY adding to  
31 Article - Health - General

1 Section 15-701 through 15-709, inclusive, to be under the new subtitle "Subtitle  
2 7. Medical Assistance Reimbursement Rate Commission"  
3 Annotated Code of Maryland  
4 (2000 Replacement Volume and 2002 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - Health - General**

8 15-102.1.

9 (b) The Department shall, to the extent permitted, subject to the limitations of  
10 the State budget:

11 (8) [Seek to provide] ASSIST THE MEDICAL ASSISTANCE  
12 REIMBURSEMENT RATE COMMISSION IN PROVIDING appropriate levels of  
13 reimbursement for providers to encourage greater participation by providers in the  
14 Program;

15 15-103.

16 (b) (1) As permitted by federal law or waiver, the Secretary may establish a  
17 program under which Program recipients are required to enroll in managed care  
18 organizations.

19 (2) (ii) Subject to the limitations of the State budget AND THE RATES  
20 ESTABLISHED BY THE MEDICAL ASSISTANCE REIMBURSEMENT RATE COMMISSION  
21 UNDER § 15-705 OF THIS TITLE, and as permitted by federal law or waiver, the  
22 Department shall provide reimbursement for medically necessary and appropriate  
23 inpatient, intermediate care, and halfway house substance abuse treatment services  
24 for substance abusing enrollees 21 years of age or older who are recipients of  
25 temporary cash assistance under the Family Investment Program.

26 (18) [(i)] The Department shall make capitation payments to each  
27 managed care organization [as provided in this paragraph] IN ACCORDANCE WITH  
28 RATES ESTABLISHED BY THE MEDICAL ASSISTANCE REIMBURSEMENT RATE  
29 COMMISSION UNDER § 15-705 OF THIS TITLE.

30 [(ii)] In consultation with the Insurance Commissioner, the Secretary  
31 shall:

32 1. Set capitation payments at a level that is actuarially  
33 adjusted to the benefits provided; and

34 2. Actuarially adjust the capitation payments to reflect the  
35 relative risk assumed by the managed care organization.]

36 (e) By regulation, the [Department] MEDICAL ASSISTANCE REIMBURSEMENT  
37 RATE COMMISSION ESTABLISHED UNDER SUBTITLE 7 OF THIS TITLE shall adopt a

1 methodology to ensure that federally qualified health centers are paid reasonable cost  
2 based reimbursement that is consistent with federal law.

3 15-103.1.

4 The Program, IN COLLABORATION WITH THE MEDICAL ASSISTANCE  
5 REIMBURSEMENT RATE COMMISSION ESTABLISHED UNDER SUBTITLE 7 OF THIS  
6 TITLE, shall use its leverage as a high volume purchaser to promote the cost  
7 effectiveness of Maryland's health care system.

8 15-103.3.

9 (a) There is a HealthChoice Performance Incentive Fund established in the  
10 Department.

11 (d) (1) The Secretary or the Secretary's designee shall administer the Fund.

12 (2) The Secretary, IN COLLABORATION WITH THE MEDICAL ASSISTANCE  
13 REIMBURSEMENT RATE COMMISSION ESTABLISHED UNDER SUBTITLE 7 OF THIS  
14 TITLE, shall adopt regulations to carry out the provisions of this section, including the  
15 distribution of moneys from the Fund to managed care organizations.

16 15-105.

17 (a) The Department, IN COLLABORATION WITH THE MEDICAL ASSISTANCE  
18 REIMBURSEMENT RATE COMMISSION ESTABLISHED UNDER SUBTITLE 7 OF THIS  
19 TITLE, shall adopt rules and regulations for the reimbursement of providers under the  
20 Program. However, except for an invoice that must be submitted to a Medicare  
21 intermediary or Medicare carrier for an individual who may have both Medicare and  
22 Medicaid coverage, payment may not be made for an invoice that is received more  
23 than 1 year after the dates of the services given.

24 (c) (1) The Department, IN COLLABORATION WITH THE MEDICAL  
25 ASSISTANCE REIMBURSEMENT RATE COMMISSION ESTABLISHED UNDER SUBTITLE 7  
26 OF THIS TITLE, shall adopt regulations for the reimbursement of specialty outpatient  
27 treatment and diagnostic services rendered to Program recipients at a freestanding  
28 clinic owned and operated by a hospital that is under a capitation agreement  
29 approved by the Health Services Cost Review Commission.

30 15-109.

31 (e) (1) Each resident of a nursing home who is a recipient of medical  
32 assistance shall receive a personal needs allowance.

33 (4) The Secretary, IN COLLABORATION WITH THE MEDICAL ASSISTANCE  
34 REIMBURSEMENT RATE COMMISSION ESTABLISHED UNDER SUBTITLE 7 OF THIS  
35 TITLE, shall adopt regulations to implement this subsection.

1 15-111.

2 (a) The Department may authorize reimbursement of a licensed day care  
3 center for the elderly or medically handicapped adults for medical care that the center  
4 provides to a Program recipient who is certified as requiring nursing home care.

5 (b) (2) The reimbursement rate for medical day care:

6 (i) May not exceed a maximum per diem rate established by  
7 regulation of the [Department] MEDICAL ASSISTANCE REIMBURSEMENT RATE  
8 COMMISSION; and

9 (ii) Shall cover the following:

- 10 1. Administrative overhead;
- 11 2. Drugs, supplies, and equipment;
- 12 3. Food;
- 13 4. Medical services;
- 14 5. Staff; and
- 15 6. Transportation.

16 15-112.

17 After consultation with the State Board of Pharmacy, AND IN ACCORDANCE  
18 WITH REIMBURSEMENT RATES ESTABLISHED BY THE MEDICAL ASSISTANCE  
19 REIMBURSEMENT RATE COMMISSION UNDER § 15-705 OF THIS TITLE, the Secretary  
20 may authorize reimbursement of a physician for the dispensing of drugs to Program  
21 recipients, on the same basis as a licensed pharmacist if:

22 (1) The physician dispenses drugs on a regular basis in the physician's  
23 office; and

24 (2) There is no pharmacy within 10 miles of that office.

25 15-113.

26 (b) (1) If an inmate of a public institution is eligible for federally funded  
27 Medicaid benefits, the Department shall pay the custodial authority for any medical  
28 care that is provided to the inmate during the month when the individual became an  
29 inmate.

30 (2) Payments under this subsection shall be made in accordance with  
31 applicable rules and regulations, INCLUDING RULES AND REGULATIONS  
32 ESTABLISHED BY THE MEDICAL ASSISTANCE REIMBURSEMENT RATE COMMISSION  
33 UNDER § 15-706 OF THIS TITLE, for the Program.

1 15-114.

2 (c) In accordance with subsection (e) of this section, the Department shall  
3 reimburse each hospital-based related institution that:

4 (1) Is a distinct part of an acute or chronic hospital; and

5 (2) On and after July 1, 1980, is licensed as a related institution.

6 (e) (5) Beginning July 1, 1989, the Department shall reimburse at rates  
7 determined under the [Program] regulations ADOPTED BY THE MEDICAL  
8 ASSISTANCE REIMBURSEMENT RATE COMMISSION UNDER § 15-706 OF THIS TITLE  
9 AND applicable to skilled and intermediate care nursing facilities.

10 15-114.1.

11 (a) In this section, "emergency service transporter" means a public entity or  
12 volunteer fire, rescue, or emergency medical service that provides emergency medical  
13 services.

14 (b) If an emergency service transporter charges for its services and requests  
15 reimbursement from the Program, the Department shall reimburse the emergency  
16 service transporter, in an amount not to exceed \$100 per transport, for the cost of:

17 (1) Transportation the emergency service transporter provides to a  
18 Program recipient to a facility in response to a 911 call; and

19 (2) Medical services the emergency service transporter provides to the  
20 Program recipient while transporting the Program recipient to a facility in response  
21 to a 911 call.

22 (c) The [Department] MEDICAL ASSISTANCE REIMBURSEMENT RATE  
23 COMMISSION ESTABLISHED UNDER SUBTITLE 7 OF THIS TITLE shall adopt any  
24 regulations necessary to carry out this section.

25 15-116.

26 The Department, IN ACCORDANCE WITH RATES ESTABLISHED BY THE MEDICAL  
27 ASSISTANCE REIMBURSEMENT RATE COMMISSION UNDER § 15-705 OF THIS TITLE,  
28 shall reimburse skilled nursing facilities for services provided to indigent or medically  
29 indigent patients under the age of 21 years.

30 15-117.

31 (b) (1) To ensure that a bed is reserved for a Program recipient who is  
32 absent temporarily from a nursing facility, the Program shall include the following  
33 payments for nursing facilities that have made a provider agreement with the  
34 Department.

35 (d) Payments required under this section shall be made according to the per  
36 diem payment procedures that the [Department] MEDICAL ASSISTANCE

1 REIMBURSEMENT RATE COMMISSION sets UNDER SUBTITLE 7 OF THIS TITLE and  
2 may not be less than the per diem payments made to the nursing facility for days  
3 when the Program recipient is present in the facility.

4 15-118.

5 (b) (1) Except as provided under paragraph (2) of this subsection, the  
6 [Program] MEDICAL ASSISTANCE REIMBURSEMENT RATE COMMISSION  
7 ESTABLISHED UNDER SUBTITLE 7 OF THIS TITLE shall establish maximum  
8 reimbursement levels for the drug products for which there is a generic equivalent  
9 authorized under § 12-504 of the Health Occupations Article, based on the cost of the  
10 generic product.

11 (2) If a prescriber directs a specific brand name drug, the reimbursement  
12 level shall be based on the cost of the brand name product.

13 (d) The Secretary AND THE MEDICAL ASSISTANCE REIMBURSEMENT RATE  
14 COMMISSION, IN ACCORDANCE WITH § 15-706 OF THIS TITLE, shall adopt regulations  
15 to carry out the provisions of this section.

16 SECTION 2. BE IT FURTHER ENACTED, That the Laws of Maryland read as  
17 follows:

18 **Article - Health - General**

19 **SUBTITLE 7. MEDICAL ASSISTANCE REIMBURSEMENT RATE COMMISSION.**

20 15-701.

21 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
22 INDICATED.

23 (B) "COMMISSION" MEANS THE MEDICAL ASSISTANCE REIMBURSEMENT RATE  
24 COMMISSION.

25 15-702.

26 (A) THERE IS A MEDICAL ASSISTANCE REIMBURSEMENT RATE COMMISSION.

27 (B) THE COMMISSION IS AN INDEPENDENT UNIT THAT FUNCTIONS WITHIN  
28 THE DEPARTMENT.

29 15-703.

30 (A) (1) THE COMMISSION SHALL CONSIST OF 11 MEMBERS APPOINTED BY  
31 THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

32 (2) NO MORE THAN 5 MEMBERS MAY HAVE A CONNECTION WITH THE  
33 MANAGEMENT OF AN ENTITY THAT RECEIVES PAYMENT FROM THE MEDICAL  
34 ASSISTANCE PROGRAM.

1 (B) (1) THE TERM OF A MEMBER IS 5 YEARS.

2 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE  
3 TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2003.

4 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A  
5 SUCCESSOR IS APPOINTED.

6 (4) IF A VACANCY OCCURS DURING THE TERM OF A MEMBER, THE  
7 GOVERNOR SHALL APPOINT A SUCCESSOR WHO SHALL SERVE UNTIL THE TERM  
8 EXPIRES.

9 (5) A MEMBER WHO SERVES TWO CONSECUTIVE FULL 5-YEAR TERMS  
10 MAY NOT BE REAPPOINTED FOR 5 YEARS AFTER COMPLETION OF THOSE TERMS.

11 (C) EACH YEAR, FROM AMONG THE MEMBERS OF THE COMMISSION:

12 (1) THE GOVERNOR SHALL APPOINT A CHAIRMAN; AND

13 (2) THE CHAIRMAN SHALL APPOINT A VICE CHAIRMAN.

14 15-704.

15 (A) A QUORUM OF THE COMMISSION IS 6 MEMBERS.

16 (B) THE COMMISSION SHALL MEET AT LEAST 6 TIMES A YEAR AT THE TIMES  
17 AND PLACES THAT IT DETERMINES.

18 (C) A MEMBER OF THE COMMISSION:

19 (1) MAY NOT RECEIVE COMPENSATION FOR DUTIES PERFORMED AS A  
20 MEMBER OF THE COMMISSION; BUT

21 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE  
22 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

23 (D) THE COMMISSION MAY EMPLOY STAFF AND EXPEND FUNDS TO CARRY  
24 OUT ITS DUTIES AND RESPONSIBILITIES UNDER THIS SUBTITLE IN ACCORDANCE  
25 WITH THE STATE BUDGET.

26 15-705.

27 (A) BY JANUARY 1, 2005, THE COMMISSION SHALL ESTABLISH RATES FOR  
28 REIMBURSEMENT OF MANAGED CARE ORGANIZATIONS AND HEALTH CARE SERVICES  
29 PROVIDED UNDER THE MEDICAL ASSISTANCE PROGRAM AND MARYLAND  
30 CHILDREN'S HEALTH PROGRAM.

31 (B) IN DEVELOPING THE REIMBURSEMENT RATES UNDER THIS SUBTITLE,  
32 THE COMMISSION SHALL:

1 (1) CONSIDER THE UNDERLYING METHODOLOGY USED IN THE  
2 RESOURCE-BASED RELATIVE VALUE SCALE ESTABLISHED FOR THE FEDERAL  
3 MEDICARE PROGRAM;

4 (2) ENSURE THAT THE COMPENSATION FOR HEALTH CARE SERVICES IS  
5 REASONABLY RELATED TO THE COST OF PROVIDING THE HEALTH CARE SERVICE,  
6 INCLUDING THE COST OF:

7 (I) PROFESSIONAL LIABILITY INSURANCE; AND

8 (II) COMPLYING WITH ALL FEDERAL, STATE, AND LOCAL  
9 REGULATORY REQUIREMENTS;

10 (3) ENSURE THE PARTICIPATION OF A SUFFICIENT NUMBER OF  
11 PROVIDERS;

12 (4) REFLECT RATES PAID BY OTHER PAYORS FOR SIMILAR SERVICES;  
13 AND

14 (5) PROVIDE FOR AN ANNUAL INFLATIONARY ADJUSTMENT.

15 (C) IN DEVELOPING THE REIMBURSEMENT RATES FOR MANAGED CARE  
16 ORGANIZATIONS UNDER THIS SUBTITLE, THE COMMISSION SHALL:

17 (1) SET CAPITATION PAYMENTS AT A LEVEL THAT IS ACTUARIALLY  
18 ADJUSTED TO THE BENEFITS PROVIDED; AND

19 (2) ACTUARIALLY ADJUST THE CAPITATION PAYMENTS TO REFLECT  
20 THE RELATIVE RISK ASSUMED BY THE MANAGED CARE ORGANIZATION.

21 (D) REIMBURSEMENT RATES ESTABLISHED BY THE COMMISSION UNDER THIS  
22 SECTION SHALL BE SUBJECT TO THE LIMITATIONS ESTABLISHED IN §§ 15-103, 15-110,  
23 15-111, 15-112, 15-113, 15-114, 15-114.1, 15-116, 15-117, AND 15-118 OF THIS TITLE.

24 15-706.

25 THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET, BEGINNING WITH  
26 FISCAL YEAR 2006, AT A MINIMUM, SUFFICIENT FUNDS FOR THE REIMBURSEMENT  
27 RATES ESTABLISHED BY THE COMMISSION UNDER THIS SUBTITLE.

28 15-707.

29 (A) IN ADDITION TO THE POWERS AND DUTIES PROVIDED ELSEWHERE IN  
30 THIS SUBTITLE, THE COMMISSION:

31 (1) SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF  
32 THIS SUBTITLE;

33 (2) MAY CREATE COMMITTEES FROM AMONG ITS MEMBERS; AND

1           (3)     SUBJECT TO THE LIMITATIONS OF THIS SUBTITLE, MAY EXERCISE  
2 ANY OTHER POWER THAT IS REASONABLY NECESSARY TO CARRY OUT THE  
3 PURPOSES OF THIS SUBTITLE.

4     (B)     THE COMMISSION SHALL HAVE TIMELY ACCESS TO INFORMATION FROM  
5 THE EXECUTIVE BRANCH REQUIRED TO FULFILL THE RESPONSIBILITIES OF THE  
6 COMMISSION UNDER THIS SUBTITLE.

7 15-708.

8     (A)     THE POWER OF THE SECRETARY OVER PLANS, PROPOSALS, AND PROJECTS  
9 OF UNITS IN THE DEPARTMENT DOES NOT INCLUDE THE POWER TO DISAPPROVE OR  
10 MODIFY A DECISION OR DETERMINATION THAT THE COMMISSION MAKES UNDER  
11 AUTHORITY SPECIFICALLY DESIGNATED TO THE COMMISSION BY LAW.

12    (B)     THE POWER OF THE SECRETARY TO TRANSFER BY RULE, REGULATION, OR  
13 WRITTEN DIRECTIVE ANY STAFF, FUNCTION, OR FUNDS OF UNITS IN THE  
14 DEPARTMENT DOES NOT APPLY TO ANY STAFF, FUNCTION, OR FUNDS OF THE  
15 COMMISSION.

16 15-709.

17     ON OR BEFORE OCTOBER 1, 2004, AND ON OR BEFORE OCTOBER 1 OF EACH YEAR  
18 THEREAFTER, THE COMMISSION SHALL ISSUE A REPORT TO THE GOVERNOR, THE  
19 SECRETARY, AND SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE  
20 GENERAL ASSEMBLY THAT DISCUSSES ITS ACCOMPLISHMENTS.

21     SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial  
22 members of the Medical Assistance Reimbursement Rate Commission shall expire as  
23 follows:

24     (1)     two members in 2005;

25     (2)     three members in 2006;

26     (3)     three members in 2007; and

27     (4)     three members in 2008.

28     SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall  
29 take effect on January 1, 2005.

30     SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions  
31 of Section 4 of this Act, this Act shall take effect October 1, 2003.